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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,999	08/27/2003	Mark Stuart Day	CIS03-35(7193)	4356

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EXAMINER

LIN, KENNY S

ART UNIT PAPER NUMBER

2152

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/648,999	Applicant(s) DAY, MARK STUART	
	Examiner Kenny Lin	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/12/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are presented for examination.
2. Applicant's arguments, see page 14-17 of the remark, filed on 6/15/2006, with respect to the rejection(s) of claim(s) 1-28 under 102(e) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made (see rejection below).

Information Disclosure Statement

3. The IDS, filed on October 12, 2004, which the examiner indicated that no legible copy of the non-patent literature submitted in the last office action, is now considered since a copy of the non-patent literature reference has been scanned and made available to the examiner.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. The following terms lack proper antecedence basis and render the claims indefinite:

- i. Claims 1, 3-5, 7-8, 10-12, 14-18, 20-24, 26-28 - presence information
(Claiming the “general sense” a specific term is inappropriate since 35 U.S.C. 112, second paragraph, requires the claim to particularly point out and distinctly claim the invention, not merely its general sense. This renders the claims indefinite since it is unclear whether the terms should be interpreted as “general sense” or the actual element);
- ii. Claims 30 – a first subscription request.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 8, 10, 15-17, 20, 22, 24, 27-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain, US 2004/0122901, in view of Bobde et al (hereinafter Bobde), US 2003/0217099.

8. As per claims 1, 8 and 15-16, Sylvain taught the invention substantially as claimed including a computerized device comprising:

- a. At least one communication interface (presence clients 24 associated with subscribers);

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- b. A controller (pp. 0036: presence system 20 includes control system 52, fig.2); and
- c. An interconnection mechanism coupling the at least one communications interface and the controller (pp. 0036: *subscriber management logic 56 facilitates and controls interaction with integrated presence clients 24 associated with subscribers*, fig.1: connection between client 24 and presence system 20);
- d. Wherein controller is configured to:
 - i. Receive, from the content subscriber, a subscription request for presence information (pp. 0026-0028: *the integrated presence client 24 subscribes to the integrated presence system 20 and identifies the users whose presence information is desired. The integrated presence system will accept these subscriptions as well as register participating users and their associated devices*);
 - ii. Transmit the notification message to the content subscriber in response to receiving the subscription request (pp. 0053: steps 408, 410, 412 and 414), allowing the content subscriber to subscribe to the presence information (pp. 0051-0053).

9. Sylvain did not specifically teach to *insert an address* within a notification message, the address relating to presence information transmitted using a one-to-many transmission channel; and the address of the notification message allowing the content subscriber to subscribe to the presence information using the one-to-many transmission channel. Bobde taught to insert an address within a notification message wherein the address is related to the presence information

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and allow the content subscriber to subscribe to the presence information using a one-to-many transmission channel (pp. 0029-0030: *The body of the NOTIFY message contains the data from the offline subscribes data structure, such as a list of the subscribers and their corresponding network address information*; user determine to accept or deny the list of subscribers. pp. 0022: communications channels). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain and Bobde because Bobde's teaching of including a list of addresses of subscribers in the NOTIFY message of a offline subscribe request enables any particular device of Sylvain's system to request and receive offline subscriptions and determine what other devices have attempted to monitor the particular device's presence information during the particular device's offline period (see Bobde, pp. 0029).

10. As per claims 17, 22 and 27-28, Sylvain taught the invention substantially as claimed including a content subscriber comprising:

- a. At least one communications interface (presence clients 24 associated with subscribers);
- b. A controller (pp. 0036: presence system 20 includes control system 52, fig.2); and
- c. An interconnection mechanism coupling the at least one communications interface and the controller (pp. 0036: subscriber management logic 56 facilitates and controls interaction with integrated presence clients 24 associated with subscribers, fig.1: connection between client 24 and presence system 20);
- d. Wherein controller is configured to:

- i. Transmit, via the at least one communications interface, a first subscription request for presence information to a computerized device (pp. 0026-0028: the integrated presence client 24 subscribes to the integrated presence system 20 and identifies the users whose presence information is desired. The integrated presence system will accept these subscriptions as well as register participating users and their associated devices);
- ii. Receive, via the at least one communications interface, in response to transmitting the subscription request, a notification message from the computerized device (pp. 0051-0053: steps 408, 410, 412 and 414).

11. Sylvain did not specifically teach that the notification message having an address relating to presence information transmitted using a one-to-many transmission channel, and to transmit a second subscription request for presence information using the one-to-many transmission channel. Bobde taught to insert an address within a notification message wherein the address is related to the presence information and allow the content subscriber to subscribe to the presence information using a one-to-many transmission channel by transmitting a second subscription request for presence information (pp. 0029-0030: *The body of the NOTIFY message contains the data from the offline subscribes data structure, such as a list of the subscribers and their corresponding network address information.* pp. 0044-0047 : sending a second subscribe message after receiving a NOTIFY: re-subscribe message. pp. 0022: communications channels). It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings of Sylvain and Bobde because Bobde's teaching of including a list of addresses of subscribers in the NOTIFY message of a offline subscribe request enables any particular device of Sylvain's system to request and receive offline subscriptions and determine what other devices have attempted to monitor the particular device's presence information during the particular device's offline period (see Bobde, pp. 0029).

12. As per claims 3 and 10, Sylvain and Bobde taught the invention substantially as claimed in claims 1 and 8. Bobde further taught the step of inserting comprises inserting a plurality of address within the notification message, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel (pp. 0029: list of addresses).

13. As per claims 20 and 24, Sylvain and Bobde taught the invention as claimed in claims 17 and 22. Bobde further taught the step of receiving comprises receiving a notification message from the computerized device, the notification message having a plurality of addresses, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel and further comprising selecting a one-to-many transmission channel for reception of the presence information (pp. 0029: list of address).

14. As per claim 30, Sylvain and Bobde taught the invention substantially as claimed in claim 17. Bobde further taught that transmitting a first subscription requests comprises: Transmitting a first subscription request for presence information to a computerized device,

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wherein the first subscription request is a subscription request for updates on presence information (pp. 0030: updated presence information).

15. Claims 2, 9, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain and Bobde as applied to claims 1, 8, 17 and 22 above, and further in view of Costa-Requena et al (hereinafter Costa), US 2004/0098491.

16. As per claims 2 and 9, Sylvain and Bobde taught the invention substantially as claimed in claims 1 and 8. Bobde further taught the step of inserting further comprises inserting an address identifier within the notification message (pp. 0058). Sylvain and Bobde did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Costa taught to indicate the availability of the presence information and the address of the presence information (pp. 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde and Costa because Costa's teaching of indicating the availability of the address enables Sylvain and Bobde's system to inform the subscriber whether the presence information is available.

17. As per claims 18 and 23, Sylvain and Bobde taught the invention substantially as claimed in claims 17 and 22. Bobde further taught the step of receiving further comprises receiving an address identifier within the notification message (pp. 0029-0030, 0058) and:

- a. Examining the address identifier (pp. 0029-30, 0058-0059, 0063);

- b. When identifying the address identifier in response to examining, utilizing the address to transmit the second subscription request for presence information using the one-to-many transmission channel (pp. 0029-0030, 0044-0047, 0059).

18. Sylvain and Bobde did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Costa taught to indicate the availability of the presence information and the address of the presence information (pp. 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde and Costa because Costa's teaching of indicating the availability of the address enables Sylvain and Bobde's system to inform the subscriber whether the presence information is available at the directed address. Furthermore, it would have been obvious to one of ordinary skill in the art to save time and ignore the notification message when there exist an indication indicating that the presences information address inserted in the message is not available.

19. Claims 4-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain and Bobde as applied to claims 1 and 8 above, and further in view of Barbir et al (hereinafter Barbir), US 2003/0115283.

20. Barbir was cited in the previous office action.

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21. As per claims 4 and 11, Sylvain and Bobde taught the invention substantially as claimed in claims 1 and 8. Bobde further taught that the step of receiving comprises receiving a plurality of subscription requests for presence information from a plurality of content subscribers and the step of transmitting comprises transmitting the notification message to a portion of the content subscribers, the address of the notification message allowing the portion of the content subscribers to subscribe to the presence information using the one-to-many transmission channel (pp. 0022, 0029-0030, 0044-0047). Sylvain and Bobde did not specifically teach in detail to:

- a. Detect a size characteristic of the plurality of content subscribers;
- b. Compare the size characteristic to a threshold condition.

22. Barbir taught to redirect subscriber requests according to content server load and to detect a size characteristic of the plurality of content subscribers and compare the size characteristic to a threshold condition in determine the server load (abstract, pp. 0006-0007, 0010, 0013-0016, 0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde and Barbir because Barbir's teaching of determining size characteristics of the content subscribers helps Sylvain and Bobde's system to determine server loads and efficiently redirect the incoming requests to prevent server overload.

23. As per claims 5 and 12, Sylvain, Bobde and Barbir taught the invention substantially as claimed in claims 4 and 11. Bobde further taught to comprise:

- a. transmitting a nullify notification message to a content subscriber subscribed to the presence information using the one-to-many transmission channel, the nullify

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notification message having a one-to-one address relating to presence information transmitted using a one-to-one transmission channel (pp. 0022, 0029-0030, 0040-0047); and

- b. receiving a second subscription request from the content subscriber for presence information using the one-to-one transmission channel (pp. 0044-0047).

24. Claims 6, 13, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain and Bobde as applied to claims 1, 8, 17 and 22 above, and further in view of Kinnunen et al (Kinnunen), US 6,813,501.

25. Kinnunen was cited in the previous office action.

26. As per claims 6 and 13, Sylvain and Bobde taught the invention substantially as claimed in claims 1 and 8. Sylvain further taught to comprise subscribing to the one-to-many transmission channel for reception of the presence information (pp. 0022, 0029-0030). Sylvain and Bobde did not specifically teach to receive an unsubscribe message from the content subscriber in response to transmitting the notification message, the unsubscribe message indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of Sylvain and

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Bobde's system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

27. As per claims 19 and 25, Sylvain and Bobde taught the invention substantially as claimed in claims 17 and 22. Sylvain further taught so subscribe to the one-to-many transmission channel for reception of the presence information (pp. 0022, 0029-0030). Sylvain and Bobde did not specifically teach to transmit an unsubscribe message to the presence server in response to receiving the notification message, the unsubscribe message indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of Sylvain and Bobde's system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

28. Claims 7, 14, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain and Bobde as applied to claims 1, 8, 17 and 22 above, and further in view of "Official Notice".

29. As per claims 7 and 14, Sylvain and Bobde taught the invention substantially as claimed in claims 1 and 8. Bobde further taught that:

- a. The step of inserting comprises inserting the address within the notification message in response to receiving the subscription request, the address relating to presence information transmitted using a one-to-many transmission channel (pp. 0022, 0029-0030); and
- b. The step of transmitting comprises transmitting the notification message to the content subscriber, the address of the notification message allowing the content subscriber to subscribe to the presence information using the one-to-many transmission channel (pp. 0022, 0029-0030).

30. Sylvain and Bobde did not specifically teach that the one-to-many transmission channel is a multicasting channel. However, Official Notice is taken that the concept and advantage of multicasting is a well know as a one-to-many transmission method in the art. It would have been obvious to select a multicasting channel as the one-to-many transmission channel in order to gain the benefit of sending contents simultaneously to more than one requester. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain and Bobde and further selects multicast transmission channel as the one-to-many transmission channel to allow Sylvain and Bobde's system to transmit presence information simultaneously to more than one subscriber.

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31. As per claims 21 and 26, Sylvain and Bobde taught the invention substantially as claimed in claims 17 and 22. Bobde further taught that:

- a. The step of receiving comprises receiving, in response to transmitting the subscription request, a notification message from the computerized device, the notification message having an address relating to presence information transmitted using a multicast transmission channel (pp. 0022, 0029-0030); and
- b. The step of transmitting a second subscription request comprises transmitting the second subscription request for presence information using the multicast transmission channel (pp. 0040-0047).

32. Sylvain and Bobde did not specifically teach that the one-to-many transmission channel is a multicasting channel. However, Official Notice is taken that the concept and advantage of multicasting is a well know as a one-to-many transmission method in the art. It would have been obvious to select a multicasting channel as the one-to-many transmission channel in order to gain the benefit of sending contents simultaneously to more than one requester. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain and Bobde and further selects multicast transmission channel as the one-to-many transmission channel to allow Sylvain and Bobde's system to transmit presence information simultaneously to more than one subscriber.

33. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvain, Bobde and Kinnunen as applied to claim 6 above, and further in view of Friedman, US 2004/0158608.

34. As per claim 29, Sylvain, Bobde and Kinnunen taught the invention substantially as claimed in claim 6. Bobde further taught to track the number of content subscribers using one-to-one transmission channel and the number of content subscribers using one-to-many transmission channel based on the number of subscribe messages receive (pp. 0029: list of addresses of subscribers). Sylvain, Bobde and Kinnunen did not specifically teach to manage balance distribution of presence information between the one-to-one transmission channel and the one-to-many transmission channel based on the number of content subscribers using each channel. Friedman taught to include a load balancer for the presence server to balance traffic between the presence server and the subscribers (pp. 0029-0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sylvain, Bobde, Kinnunen and Friedman because Friedman's teaching of using a load balancer enables Sylvain, Bobde and Kinnunen's system to balance presence information and updated presence information to the users and properly handle traffic load (see Friedman pp. 0030).

Response to Arguments

35. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mukherjee et al, US 2003/0026289.

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Wang, US 2002/0131395.

Koskelainen, US 6,885,861.

37. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl
August 15, 2006

A handwritten signature in dark ink, appearing to read 'Kenny Lin', followed by a large, stylized 'Z' or '2'.